

Nadler Demands National Security Letters/Patriot Act Abuses Fix

Monday, 19 March 2007

WASHINGTON, D.C. – During a Judiciary Committee hearing on the FBI's abuse of National Security Letters today, Congressman Jerrold Nadler called on Congress to amend the law to ensure that the recently revealed abuses documented by the DOJ Inspector General's Report are not allowed to continue.

"It is not enough to mandate that the FBI fix internal management problems and record keeping, because the statute itself authorizes the unchecked collection of information on innocent Americans. Congress must act now to fix the statute authorizing the abuses revealed in the IG report and to hold those responsible for these violations accountable," said Congressman Nadler.

For years, Congressman Nadler has led the opposition to the pernicious elements of the Patriot Act and specifically has raised concerns regarding National Security Letters. In the last Congress, he introduced the Stop Self-Authorized Secret Searches Act, H.R. 2715, to prevent abuse of National Security Letters. This year, as Chairman of the Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties, he plans to introduce legislation designed to prevent the very abuses that were raised today during the hearing. As a Co-Chair of the bipartisan Patriot Act Reform Caucus, he will continue to work with his colleagues in a bipartisan fashion to amend Section 505 of the Patriot Act which concerns National Security Letters.

His full statement follows:

"I would like to thank Chairman Conyers for holding this important hearing on the FBI abuses of National Security Letters.

"We are here today in response to the DOJ's Inspector General Report that found wide-spread abuses of the FBI's authority to issue National Security Letters. A National Security Letter can be issued to a third party, such as a health insurance company or an internet service provider, ordering them to reveal all their information about you and your transactions and the third party is prohibited from telling you or anyone else about the order. So you cannot object to the NSL in court, as you could to a subpoena, because you don't know about it. And the third party may have no interest in going to court to protect your rights.

"While last year's reauthorization of the Patriot Act did make some changes to the NSL provisions, these changes were essentially meaningless. For example, the court is authorized to modify or set aside the gag order if it finds there is no reason to believe that disclosure would endanger national security, diplomatic relations, or anyone's life or safety. But, the court must accept the government's assertion of harm as "conclusive."

"Some of us had predicted that the unrestricted authority of the FBI to issue NSL's would be abused, and, unfortunately, our worst fears have now been realized. The IG's audit found that the NSL's have been used by the FBI to collect and retain private information about American citizens who are not reasonably suspected of being involved in terrorism.

"During the last Congress, we predicted that unchecked power would lead to rampant abuse. That is why I proposed amendments to the Patriot Act to restrict NSL's, and also proposed the "Stop Self-Authorized Secret Searches Act."

"This bill would have restored pre-Patriot Act provisions that a NSL could not be issued unless the FBI made a factual, individualized showing that the records sought pertained to a suspected terrorist or spy. It also would have:

given the recipient of a national security letter an opportunity to obtain legal counsel;

given the recipient of a NSL the right to challenge the letter and the nondisclosure requirement (gag order);

given notice to the target of an NSL if the government seeks to use the records obtained from the NSL in a subsequent proceeding; and

given the target an opportunity to receive legal counsel, and challenge the use of those records.

This bill would have authorized the FBI to obtain documents that it legitimately needs, while protecting the privacy of law-abiding American citizens.

"I had also proposed an amendment to the Patriot Act which would have prohibited any funds from being used to issue a national security letter to health insurance companies under any of the provisions amended by Section 505. My amendment would have allowed the FBI to access this highly personalized medical information only after getting a search warrant or a grand jury subpoena, or getting a secret order from a FISA court.

"The abuses by the DOJ and FBI have proven that these legislative fixes are a necessary check on their investigatory power. It is not enough to mandate that the FBI fix internal management problems and record keeping, because the statute itself authorizes the unchecked collection of information on innocent Americans. Congress must act now to fix the statute authorizing the abuses revealed in the IG report and to hold those responsible for these violations accountable."

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